

## Form 990-N and Form 990-EZ Filing Tips

**Rich:**

**[Slide 2]** Thank you. Hello and thank you for attending this webcast: Form 990-N and 990-EZ Filing Tips. I'm Rich Crom and I'm an analyst in the Exempt Organizations Program Management Office, where my principal responsibility is coordinating the strategic planning for the Exempt Organizations Office.

**Joe:**

And I'm Joe Kroll. I'm a manager with the IRS Exempt Organizations Examinations Program. It's a pleasure for Rich and me to be with you today.

**Rich:**

**[Slide 3]** Yes, it is Joe. Today we're going to provide for you some tips to help you save time in preparing these two forms. We'll explain some steps that you can use to help avoid penalties. We're then going to discuss automatic revocation and explain the new reinstatement procedures under Rev. Proc. 2014-11 and lastly we'll highlight some online resources that can help your organizations.

Now Joe is going to tell you a little bit about Form 990.

Joe?

**Joe:**

**[Slide 4]** Thanks, Rich. It's good to be presenting with you again.

As you know, the Form 990 is the information return that most large tax-exempt organizations file with the IRS each year. There are variations, such as the Form 990-PF for private foundations, the short Form 990-EZ for the mid-sized organizations and the Form 990-N, that e-Postcard, for the small organizations.

Today we're going to use Form 990 series return to refer to the Form 990, the 990-EZ, the 990-N e-Postcard and the 990-PF, however, this phone forum is going to primarily focus on the Form 990-N and the 990-EZ.

Unlike most IRS forms, the 990 series returns are not tax forms. The Form 990 series return's primary purpose is not to report financial information. The form provides the IRS and the public with information about an organization's programs and activities, their relationships, their transactions and governance, in addition to the revenue, expenses and assets.

**[Slide 5]** The IRS uses the Form 990 return to administer tax laws and promote compliance with those laws by exempt organizations. In addition, because it's a public document, Form 990 is a public window into an organization's operations.

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A properly completed and filed Form 990 series return will meet the organization's annual information return filing obligations and will show:

- the IRS and the public that the organization is organized and operated as a tax-exempt entity
- is in compliance with applicable tax laws
- is well governed and managed
- furthers its mission through its exempt activities
- and provides valuable services to the public

Rich, can you tell our audience about who is required to file?

**Rich:**

**[Slide 6]** Sure, Joe.

First who has to file Form 990 and who must file the other 990 series returns? Let me start with the fact that certain types of organizations do not have any Form 990 series filing requirements, these include churches, associations of churches and integrated auxiliaries of churches.

I repeat, churches do not have to file the Form 990 or the 990-EZ or the 990-N, which we'll talk about in a minute, although they will have to file Form 990-T to report unrelated business income, if they have over \$1,000 of gross unrelated business income in a given tax year.

There are also a few other exceptions to Form 990 filing, mostly for governmental entities and political organizations.

**[Slide 7]** All Form 990 series filing exceptions are listed in Publication 557, which is entitled *Tax Exempt Status for Your Organization* and they are also in the Form 990 and 990-EZ instructions.

Now any newly formed organization that does not meet any of these exceptions will be required to file a Form 990 series return even if it hasn't yet applied for or received recognition of exemption from the IRS.

If an organization has filed or plans to file an application for exemption, but it's not been yet recognized by the IRS, then it should check the Application Pending box on page one of its Form 990 or the 990-EZ. Now you might be wondering which return in the Form 990 series you're supposed to file.

Joe, can you cover that for us?

**Joe:**

**[Slide 8]** I can. Thanks.

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The annual information return and exempt organization is required to file is determined by either its public charity status or its financial activity. For example, if an organization is exempt under 501(c)(3) and classified as a private foundation, it will file Form 990-PF. If a 501(c)(3) organization meets a public support test over a five-year period, it will qualify as a public charity rather than a private foundation. You will complete one of the other Form 990 series returns, not the PF.

If a 501(c)(3) organization doesn't know whether it meets the public support test, then it should fill out Form 990 Schedule A before going any further.

In general, it meets the test if it has many contributors or it has some other sources of income. Please remember that if an organization is not a private foundation, its size determines which form to file.

**[Slide 9]** Let's talk about filing thresholds for tax year 2013 and future years. An exempt organization must file Form 990 – that is it may not file the Form 990-EZ if it has either gross receipts of \$200,000 or more for the year or total assets of half a million or more at year's end.

Organizations with both amounts below these limits may file the Form 990-EZ, instead of the Form 990, but they always have the option to file the larger Form 990.

Small organizations that average \$50,000 or less in annual gross receipts over their past three years may file the Form 990-N in lieu of filing Form 990 or Form 990-EZ. Rich, what can we say about the Form 990-EZ?

**Rich:**

**[Slide 10]** Well, there's plenty to talk about there, Joe.

Form 990-EZ is the annual information return that most mid-sized tax-exempt organizations may file instead of the Form 990.

Now the EZ is much smaller. It has only four core pages compared to the full 990's 12 pages and there are fewer schedules that might potentially accompany the Form 990-EZ.

**[Slide 11]** Here's a picture of what the 990-EZ looks like.

Let's discuss a little bit more about how it works, how you file it.

**[Slide 12]** And before we do that, let's talk about Form 990-N, which is the e-Postcard.

It's the newest form in the 990 series and it comes to us courtesy of the Pension Protection Act passed by Congress in 2006. This Act included a provision, which requires small exempt organizations with average gross receipts of \$50,000 or less to identify themselves to the IRS as active current organizations by filing this notice once a year.

Now there's no paper version of Form 990-N.

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You file it online for free – but it doesn't require any special software. You'll file Form 990-N by following the steps on the e-Postcard website, which you get to from the IRS website, which is at IRS.gov.

**[Slide 13]** Filing Form 990-N, requires some basic information, including your organization's legal name, its mailing address and employer identification number, its website, if you have one, the principal officer's name and address, and a confirmation that the organization's annual gross receipts are normally \$50,000 or less as averaged over the past three years.

Now the \$50,000 or less rule is met if your organization's gross receipts for the filing year, plus your gross receipts for the two years before that, average \$50,000 or less. Organizations that are eligible to file the e-Postcard may still choose to file the full 990 or the EZ if they want to.

**[Slide 14]** Organizations that wish to file the Form 990-N, but have not been officially recognized as tax exempt by the IRS, may not be able to file this form online. If you run into that situation, we suggest that you contact the IRS toll free at 877-829-5500, and ask for an account to be created so that you are able to file the Form 990-N.

Unlike Forms 990-EZ and Form 990, there are no money penalties for filing Form 990-N late. Filing Form 990-N will help these small organizations avoid automatic revocation and as long as an organization does not fail to file for three consecutive years, its exemption will not be automatically revoked.

As I said Form 990-N is normally filed for free at the Form 990-N website and that's actually maintained for us by an institution called The Urban Institute. However, this site only permits filing the 990-N for the year that is currently due. There are other software vendors that can help you file prior year Forms 990-N for a small fee.

You can find a list of authorized vendors by going to IRS.gov and then searching for "exempt organizations authorized e-file providers." However, keep in mind that if you have already failed to file a Form 990 series return or the notice for three consecutive years, your organization's exempt status has already been automatically revoked and you will not be able to file the past due Forms 990-N.

The revocation cannot be reversed simply by filing past-due 990s, instead the organization must reapply for reinstatement and we'll discuss that in just a minute.

But first Joe is going to explain to us why including Social Security numbers on Form 990 series returns is not a good idea.

**Joe:**

**[Slide 15]** Thanks Rich. Using a Social Security number on IRS forms is not a good idea at all because of the rise in identity theft. The IRS is required to publicly disclose, upon request, approved exemption applications and information returns. It's important to remember not to put Social Security numbers on applications or any 990 series

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information return – and not to include social security numbers on the form or any of the attachments.

The *Chronicle of Philanthropy* has reported that nearly one in five, that's 20%, have submitted forms with one or more social security numbers included, so this is really important.

**[Slide 16]** The IRS put a reminder in the instructions for publicly disclosable exempt organizations forms for tax year 2012 and this would include the Form 990 and the 990-EZ, the Form 990-PF, the Form 5227, the Form 990-T, and Forms 1023 and 1024.

This is so important that for the 2013 tax year, the IRS added a warning in the heading section of these forms.

**Rich:**

**[Slide 17]** Now as Joe mentioned Form 990 series returns are publicly disclosable. Both the IRS and the filing organization must provide a copy of the organization's most recently filed Form 990 series return to whoever asks for a copy, or the organization can refer the public to a complete copy of its return on the Internet if it posts such a thing.

Form 990 series filing organizations must also allow members of the public to inspect their returns in person at their offices. You can find out more about these public disclosure requirements in the appendix to the instructions for both Form 990 and Form 990-EZ.

Now before you begin preparing a Form 990 series return, it's helpful to note for whom you will be preparing it and who might be looking at it.

Of course, the IRS is an important part of the audience, but in addition there are many state charity regulators that use Form 990-EZ and Form 990 information in much the same way the IRS uses it, mainly to enforce tax laws at the state level.

The media also reviews Forms 990 and 990-EZs in researching and reporting on charities, often focusing on compensation.

Foundations and other donors look at Form 990 and 990-EZ information so they can evaluate an organization's operations and decide whether to contribute to that organization. Other groups that regularly review Form 990 series returns include Congress, researchers, beneficiaries and charity watchdog groups.

The potentially large and diverse audience for Form 990 series return can be a positive thing for an organization because it gives the organization an opportunity to tell its story and highlight its accomplishments.

Now Joe, I understand preparing Form 990-EZ might not take a village, but it could possibly require a team. Is that true?

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**Joe:**

**[Slide 18]** Absolutely, Rich.

Assembling a team is a prudent move for organizations when it comes to putting together the Form 990-EZ. After all, most organizations cannot simply rely on their accountant or maybe their treasurer to complete the Form 990-EZ and its schedules.

Although Form 990-EZ is much smaller and has fewer schedules than the Form 990, team preparation of the Form 990-EZ is the best approach. You can save a lot of time and aggravation by delegating the preparation of different portions of the form to those with greater knowledge of a particular area of the form.

For instance, the chief financial officer or the treasurer or the CPA, could prepare the financial portion, whereas program and activity related questions could be prepared by the chief executive officer, or maybe the program staff. Board members or executive committee members could review questions relating to the operations and to the governance.

**[Slide 19]** Before preparing a Form 990-EZ, it's a good idea to determine whether you have transactions with any related organizations. Transfers to non-charitable related organizations are reported on line 49-A of the form 990-EZ. The instructions define what we mean by related organizations.

Generally, we mean organizations that control the filing organization or organizations that are controlled by the filing organization and organizations under common control with the filing organization.

Reporting of related organizations is much more extensive on the Form 990 than on the Form 990 EZ. Form 990 filers need to report information about related organizations on that Schedule R.

Form 990-EZ filers are not required to complete Schedule R. Before preparing Form 990-EZ, it's also advisable to determine whether the organization has any key employees.

Rich, can you tell our audience about key employees reporting on Form 990-EZ?

**Rich:**

**[Slide 20]** You bet. Certain questions on Form 990-EZ will ask for information about an organization's key employees. For example, how much key employees are compensated and whether any key employees made or received any loans to or from the organization.

By key employees, we mean employees other than the officers and directors who had responsibilities or powers similar to those of officers, directors or trustees. Now the term

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would typically include the chief management and administrative officials of an organization, such as executive director or a chief financial officer.

So Form 990-EZ filers must report online 38, not only loans made or received from key employees, but also loans to or from any of the officers, directors or trustees listed on Form 990-EZ in Part IV and these loans are to be reported on in more detail on Schedule L.

We'll discuss compensation reporting in a little more detail later in the presentation.

**[Slide 21]** Before we get there, I'm going to talk about some questions on Form 990-EZ that will ask for information that an organization might find a little bit challenging to obtain and accurate report.

For example, if you have to report significant changes in your organization's activity or any unrelated business income, activity, or any amount of Form 990 – excuse me, on Form W-2 or 1099 compensation in Part IV, or any excess benefit transactions under Section 4958, which is online 40C.

We do expect Form 990-EZ filers to make a reasonable effort to obtain this kind of information and one type of reasonable effort would be to send a questionnaire to each of the organizations directors, officers and key employees asking about these areas.

The questionnaire could copy questions directly from the Form 990-EZ, along with the EZ instructions that relate to these questions and ask each officer, director, trustee or key employee to return the questionnaire in plenty of time to complete the form.

Now Joe will discuss another very important topic, recordkeeping.

**Joe:**

**[Slide 22]** All organizations should have an effective and efficient recordkeeping system. Another way to simplify preparation of a Form 990-EZ is to keep complete, well organized and easy-to-locate records.

Records that support information reported on Form 990-EZ should be kept for at least three years because the IRS can examine returns up to three years old and in some cases older than that.

For instance, if your return involved fraud or failure to disclose information, that would result in excise tax. Now state law may specify other recordkeeping retention requirements.

**[Slide 23]** One big tool we want to throw out there relates to that old saying I think we've all heard "when all else fails, read the instructions."

The first big tip we want to throw out there is to use the tools we provide in the 990-EZ instructions.

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You can check the index and this will tell you where you can find a particular word or phrase.

The instructions also contain eight appendices that provide helpful explanations and background information on topics such as how to determine gross receipts, requirements for public disclosure of the Form 990 series returns, what is an excess benefit transaction, and rules regarding receiving and receding charitable contributions.

**[Slide 24]** E-filing – that's another good tip because it really saves time.

E-filing can simplify your preparation process and reduce preparation time. Also it reduces IRS processing time, saving taxpayer funds. Because the e-file system and commercial software include error detection, e-filing also reduces errors, which result in more accurate and complete reporting and fewer penalties.

The error rate differential between an e-filed return and a paper return is startling. There were errors identified in the initial stages of processing in approximately 24% of Forms 990 and Forms 990-EZ filed by paper during the 2010 calendar year.

Then, in contrast, approximately 1% of Forms 990 and 990-EZ filed electronically during the 2010 calendar year, had errors identified in initial stages of processing. Of course, you can only e-file the Form 990-N.

**[Slide 25]** Narrative reporting on Form 990-EZ gives filers an opportunity to focus on their program services and activities and really highlight their accomplishments.

For instance, Part III, this allows you to describe your organization's three largest program service accomplishments, as measured by total expenses incurred. Using specific measurements to describe the organization's accomplishments, such as the number of persons to whom it provided assistance during the year, the number of events held, or the number of publications issued.

You can also describe donated services or the free use of materials, equipment or facilities in connection with a specific program service. These types of donations can't be reported as revenue elsewhere on the return.

There may be not enough space on Part III, to describe your program's service accomplishments. If necessary, you can always use Schedule O to continue the description and tell your story. Now schedule O is a blank schedule used for narrative responses to Form 990 and Form 990-EZ questions.

Incidentally, Schedule O is the only one of the seven schedules that must be filed by all Form 990 and Form 990-EZ filers each year. Several questions require all filers to submit a narrative response on the Schedule O.

**Rich:**

**[Slide 26]** For the next section, we want to point your attention to Part V, lines 33 and 34 of Form 990-EZ. This requires an organization to report any significant activity changes or changes to its organization of documents, such as articles of incorporation



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or bylaws – and you have to detail those changes on Schedule O, as Joe was just talking about.

These types of significant changes that must be reported could include changes to the organization's name, its purposes, the role or authority of any governing members, the composition or authority of the board and how its assets are to be distributed upon dissolution.

Examples of non-significant changes that don't need to be reported would include changing registered agent or the time and place of a board meeting.

**[Slide 27]** Now let's talk about who to report in Part IV of Form 990-EZ. There are actually four categories of people to report here.

**[Slide 28]** The first category to be reported is the officers. The second and third categories of persons you should list in Part IV are the directors or the trustees.

And the fourth category would be the organization's key employees, those employees that have responsibilities for powers similar to those of officers, directors or trustees.

The term would typically include the chief management official or the chief financial officer of an organization. You have to report the names and titles of all of these people in all four of these categories, even if none of them are paid for their duties.

And note, if the organization pays another person, such as a management services company, or the services that are provided by any of the organization's officers, directors, trustees or key employees, you report the compensation in the other items asked for in Part IV as if the organization had paid the officers, directors, trustees and key employees directly.

Section 501(c)(3) organizations must complete the table in part six, line 50, for its five highest compensated employees, other than officers, directors, trustees and key employees if any of those five received more than \$100,000 of compensation from the organization or you'll simply list "none" in this section.

Joe?

**Joe:**

**[Slide 29]** Thanks, Rich. Now that Rich has explained who must be reported in Form 990-EZ Part IV, I'll explain what compensation to report for those persons in Part IV. For each person listed in Part IV, column A, list reportable compensation from the filing organization in column C.

By reportable compensation, I mean the amount found in box five of the form W-2, and box seven of the Form 1099 miscellaneous.

Next, in column D, report the person's health benefits, contribution to employee's benefit plan and deferred compensation. Report other taxable and nontaxable fringe benefits in column E, other compensation.

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An organization must report compensation in Part IV for the calendar year ending within the organization's tax year. So if the organization's 2013 tax year began on October 1, of 2013, and ended on September 30 of 2014, it will report compensation it paid during calendar year 2013 on its 2013 Form 990 Part IV.

**[Slide 30]** Let's talk about another tip. Use the instructions on Part V, other information, for required statements. Part V is a Form 990-EZ and includes questions on various areas of tax law compliance. Some of which require narrative responses on the Schedule O.

For instance, if the organization paid premiums on any personal benefit contract, it must describe its involvement in the contract on the Schedule O. It must also report significant changes to activities and organizing documents on Schedule O.

Some answers to Part V questions will trigger a requirement to file certain schedules, like Schedule L, to report excess benefit transactions and loans and Schedule N, to report a significant disposition of assets.

Part VI should only be completed by 501(c)(3) organizations to report highest compensated employees, highest compensated independent contractors, lobbying activities and transfers to non-charitable related organizations.

The organization must also confirm that it has completed the Schedule A.

**Rich:**

**[Slide 31]** Let's talk a little bit more about Schedule A, which is only filed by a 501(c)(3) organizations. It addresses a public charity compliance with the public support test, Schedule A, really could be used as a planning tool, as well, to help 501(c)(3) organization develop procedures so that it will continue to meet the public support test and maintain its public charity status.

**[Slide 32]** Now let's move on to discussing how to assemble Form 990-EZ and its schedules in any required attachments. Form 990-EZ has eight schedules that may need to be filed, although most organizations will only have to fill out a few of them.

Page seven of the 990-EZ instructions shows the schedules and attachments that may be required.

Now before you file your Form 990-EZ, we suggest that you assemble the package in the following order. First, the core Form 990-EZ with all parts completed, that would be parts I through V, part VI, if you are a section 501(c)(3) organization, and then the signature block.

Next, any of the schedules that are required for your organization and you would file those in alphabetical order. So if you have to file both the Schedule A and a Schedule C, you would put A first and then C. And then last, assemble the attachments and complete those as applicable.

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These could include a name change amendment to your organizing document that's required by item B, of the heading on page one of Form 990-EZ, or a reasonable cause explanation for a late filed return or articles or plans of merger, dissolution or liquidation that would be required if you are filing Schedule N.

Before you fill out a particular schedule, we suggest that you read the instructions for that particular schedule to see if you meet a reporting exception.

If you do, then you don't need to file it and you can answer "no" to the 990-EZ trigger question for that particular schedule.

So that completes our discussion of Form 990-EZ preparation tips.

Joe, what should filers do after they've completed and signed Form 990-EZ?

**Joe:**

**[Slide 33]** Good question, Rich.

Let's discuss the post-Form 990 preparation, you know the part about filing the form. You either file the return electronically or you file by mail. Now if you're going to file by mail, you file the return with our processing center in Ogden, Utah.

Certain large organizations must file electronically. Form 990 series returns must be filed by the 15th day of the 5th month after the end of the tax year. For 2013 calendar year filers, that means May 15, 2014.

For a fiscal year filer, whose 2013 tax year begins July 1, 2013, and ends June 30, 2014, that means November 15, of 2014.

Each Form 990 or Form 990-EZ filer is entitled by law to one automatic three-month extension, which is obtained by filing Form 8868, by the original due date of the return. If you still need a little more time, you can file another Form 8868 to request an additional three-month extension.

But this is not automatic. The IRS may grant this second extension if it determines the organization has reasonable cause or an additional three-month extension.

Form 8868 is available on the Forms and Publication Section of IRS.gov.

**[Slide 34]** If an organization fails to file by the due date as extended, it may incur penalties.

For organizations whose annual gross receipts are equal to or less than \$1 million, the penalty is \$20 per day for each day the return is late, up to a maximum of \$10,000 or 5% of the organization's gross receipts, whichever is less.

For larger organizations, whose gross receipts exceed a million dollars, the penalty is \$100 a day, up to a maximum of \$50,000.

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Penalties for incomplete or inaccurate returns, such as returns that don't include a required schedule are identical to penalties for late filed returns.

**Rich:**

**[Slide 35]** As I mentioned earlier, if an organization that is required to file a Form 990 series return does not do so for three consecutive years, the law provides that that organization's tax-exempt status will be automatically revoked on the third return's due date.

Loss of tax-exempt status will mean that an organization needs to file income tax returns and it may need to pay income tax after its exemption is revoked and contributors will not be able to take charity contribution deductions for their donations to that organization.

**[Slide 36]** When an organization is revoked, the IRS lets the organization and the public know about it by listing the organization's name and its EIN, employer identification number, on the automatic revocation list on the IRS website.

The IRS also sends the organization a letter notifying it that its tax exemption has been automatically revoked for failure to file. The IRS sends this letter to the organization's last address on record. If we don't know your address has changed, your letter might not be delivered, that's why an organization can't assume its exemption is still intact just because it hasn't received a letter.

If you suspect that your organization or another one hasn't been meeting filing requirements, you should check that list on the IRS website.

So what happens after an organization is automatically revoked? Well, the first thing you want to remember is that the effective date of revocation goes back to the due date of the third non-filed return. If an organization is a calendar-year filer and didn't file a return for tax years ending in 2010, 2011 or 2012, its third non-filed annual information return would have been due on May 15, 2013.

Beginning on May 15, 2013, the organization will most likely be required to file a federal income tax return and pay any applicable income taxes because it's not exempt any more.

The federal income tax returns would be either the Form 1120 for corporations or Form 1041 for Trusts. In our example, if the organization were a corporation, it would owe a Form 1120 for the period May 15, 2013 through the end of that year and the return would be due the next March 15, 2014.

You would also need to continue filing Form 1120 for every year after that until it dissolves or applies for reinstatement of its tax-exempt status. And, again, you can find the list of automatically revoked organizations on the IRS website, as well as lots of other information about the automatic revocation process, including some recent guidance that we put up there on reapplying for reinstatement of tax exemption.

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That's what we're going to talk about next, how you get your tax-exempt status back.

Joe?

**Joe:**

**[Slide 37]** An automatically revoked organization that wants to have text tax exemption reinstated must apply to the IRS for a new determination letter and pay the applicable user fee.

The law provides that an organization that's been automatically revoked because it did not meet its annual filing requirement must apply for reinstatement if it wants to continue to operate as an exempt organization, even if it wasn't originally required to file a tax-exempt application.

This means that if a PTA, that is a subordinate of a group ruling is automatically revoked, it must apply if it wants to be reinstated. It can't regain exemption by having its parent added back to the group exemption roster filed with the IRS.

If the IRS approves the Application for Exemption, the effective date of exemption is generally the post-marked date when the application was mailed to the IRS.

If an organization loses its exemption in May, for example, then sends in the application the following November, the IRS would grant recognition of exemption starting in November. That means the organization was not exempt for several months.

For that reason, some organizations seek reinstatement all the way back to the date of revocation. We call this retroactive reinstatement and in some cases an organization must show reasonable cause for its failure to file.

**Rich:**

**[Slide 38]** We issued a revenue procedure and the number of that revenue procedure is 2014-11. And any organization that is considering applying for reinstatement of its exempt status should really take a close look at that revenue procedure for additional details -- including things like what should be written on the application so that we're able to identify and process it correctly as a reinstatement request and how penalties might apply for failure to file.

Now the revenue procedure covers four ways to reapply for reinstatement and we're going to talk about the first three.

First, it provides organizations that were eligible to file Form 990-EZ or 990-N, and those were for the three years that caused the revocation. Those organizations may have their tax-exempt status retroactively reinstated to the date of revocation if they have not previously had their tax-exempt status automatically revoked.

And, if they complete and submit either Form 1023 or 1024, depending on their subsection and the user fee not later than 15 months after the later of the date the organization got its revocation letter or appeared on the auto revocation list.

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Now this first option in the revenue procedure, we call streamlined retroactive reinstatement because the organization is not required to submit and we aren't required to evaluate a reasonable cause statement as a condition to retroactive reinstatement.

**Joe:**

**[Slide 39]** Let's talk about the second one.

Organizations that can't use the streamlined retroactive reinstatement process – such as those that are required to file Form 990 or 990-PF or that were previously auto revoked – may be retroactively reinstated if:

- they complete and submit Form 1023 for a 501(c)(3) or Form 1024 for other organizations like the C-4 and the user fee not later than 15 months after the later of the date the organization got its revocation letter or appeared on the auto revocation list (the revocation posting date).

Include with the application a statement establishing that the organization had reasonable cause for its failure to file required annual return for at least one of the three consecutive years in which it failed to file.

Then you include with the application a statement confirming that it has filed required returns for those three years and any other taxable years after such period and before the post-marked day of the application and file properly executed and completed paper annual returns for the three consecutive years that caused the revocation and any following years.

The organization is not required to show reasonable cause for all three filing failures as it was under 2011-44.

**Rich:**

**[Slide 40]** Now the third process in the new revenue procedure is for organizations that apply for reinstatement more than 15 months after the later of the revocation letter date or the revocation posting date.

They may have their tax-exempt status retroactively reinstated if they satisfy all of the requirements under the procedure Joe just covered, except that the organization must submit a reasonable cause statement for its failure to file a required annual return for all three of the consecutive years for which it failed to file.

Now under the old notice 2011-44 that Joe just mentioned, organizations that didn't apply within 15 months couldn't request retroactive reinstatement, so this procedure now gives them that option. And then finally, organizations may apply for a reinstatement effective from the post-marked date of their application if they simply complete and submit Form 1023 or 1024 with the appropriate user fee.

Now Joe, can you talk a little bit about what reasonable cause is, what that means?

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**Joe:**

**[Slide 41]** Yes, I can. A number of factors can help show reasonable cause, however, an organization has to establish that it exercised ordinary business care and prudence in determining and trying to comply with the reporting requirements.

One is evidence that failure to file arose from events beyond the organization's control and that those events made it impossible for the organization to file.

Another factor helpful in showing reasonable cause is that the organization relied on the advice of a tax advisor that it did not have to file a return. You can review section 8 of Rev. Proc. 2014-11 for more information on reasonable cause.

**[Slide 42]** One other topic we'd like to touch on today is income generated by activities not substantially related to an organization's tax-exempt purpose or function.

This is unrelated business income or UBI. Organizations may have to report and pay taxes on UBI. If UBI activities become a substantial part of an organization's activities, it might jeopardize the organization's exempt status.

So what is UBI? Well, there is a three-part test. It is income from a trade or business that's regularly carried on and not substantially related to the organization's exempt purpose. The first part of the test is that the activity must be a trade or business.

An activity does not lose its identity as a trade or business merely because it's carried on within a larger group of similar activities that may be related to the organization's exempt purpose.

For example, the regular sale of pharmaceutical supplies to the public by a hospital pharmacy is a trade or business, however, sales to the hospital and patients are related, therefore not UBI.

Likewise, a hospital cafeteria operated for the convenience of the hospital's employees, patients and the patient's visitors is a related activity and not UBI.

The second part of a test is that the trade or business must be regularly carried on. A business activity of an exempt organization is generally considered to be regularly carried on if it is conducted in a way generally similar to comparable businesses of nonexempt organizations.

For example, a hospital auxiliary operation of a sandwich shop for a week at a state fair would likely not be regular conduct of a trade or business. However, the operation of a sandwich stand daily at the hospital and open to the public would be considered regular conduct of a trade or business.

Finally, a business activity is not substantially related to an organization's exempt purpose if it does not contribute importantly to accomplishing that purpose other than providing funds for its operation.

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**Rich:**

**[Slide 43]** Thanks, Joe, that's good information on UBI.

Before we end this presentation, Joe and I would like to provide you with a little bit of information on some additional resources such as redesigned IRS website that you see on this slide.

Now to get to the EO portion of IRS.gov, what you'll do is click on the information for link at top right corner of the page, then you'll select charities and nonprofits, help for tax exempts. This help for tax-exempts is also added to the bottom central area of the IRS home page, you can use that link, as well.

**[Slide 44]** Here is our charities and nonprofits home page.

You can also use the web address, [www.IRS.gov/charities](http://www.IRS.gov/charities) typed directly into your browser address window to get to this page directly. We recommend you spend a little time exploring some of the pages here.

The left side has many of our most popular links, these include the A-Z index, the search for charities, calendar of events, charity and nonprofit audits, free e-newsletter, which is also known as *EO Update*, online training and life cycle. These are really good resources for your organization and we'd like to take a few minutes to discuss a few of them.

**[Slide 45]** First let's look at the A-Z site index, which is a very helpful set of navigation pages. Over the years, we've added many helpful additions or pages to this site, so take a look at that.

**[Slide 46]** Now to click on search – the search for charities button, you'll go to the EO select check tool, which is one-stop page to search, sort, select and check information on certain types of exempt organizations.

At this tool, you'll find information in three different databases and those three are organizations that are eligible to receive tax deductible charitable contributions.

This used to be put in what we call Publication 78, so we call this the Pub 78 Data.

The second database is of organizations whose exempt status was automatically revoked because they failed to file a Form 990 series return, so that's the automatic revocation list I mentioned earlier. And then the third database is all the organizations who have filed Form 990-N, or the e-Postcard.

**[Slide 47]** Next is our calendar of events page, on which we offer specialized education programs to help exempt organizations understand their tax responsibilities. It contains links to register for webinars, phone forums or webcasts, like this one, workshops for small or medium size organizations we conduct around the country live and the nationwide tax forms that happen every summer.



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It also contains archived presentations on previously recorded fund forms on important topics and you can see those any time of the day or night.

**Joe:**

**[Slide 48]** This shows the charity and nonprofits audits pages. The page is very useful and explains the IRS audit process for charities and other nonprofit organizations. IRS exempt organizations is always improving our service to nonprofits.

**[Slide 49]** The free e-newsletter is the *EO Update*, which has a subscription list of nearly 200,000. This periodic newsletter contains information for tax-exempt organizations and tax practitioners like attorneys, accountants and others who represent them from exempt organizations, tax exempt and government entities at the IRS.

We encourage you to subscribe to the *EO Update* and to read archived issues posted on IRS.gov.

**[Slide 50]** One of my favorite sites to recommend and one of our most useful products for exempt organizations is our e-learning website. Stayexempt.IRS.gov.

Now you'll also find a link to stay exempt on the left side of our home page called Online Training.

There's more than 20 courses available and there's a resource library and we have courses to assist you if you are applying for exemption, we have several for existing organizations, including courses on unrelated business income, employment issues, disaster relief and the Form 990 and 990-EZ.

**[Slide 51]** The life cycle page provides information about points of intersection between organizations and the IRS. The content includes explanatory information and links to forms that the organization may need to file with the IRS.

The material covers five stages in an organization's life cycle: Starting Out, Applying for Exemption, Required Filings, Ongoing Compliance and Significant Events. Organizations will find the information on this site very useful.

**[Slide 52]** Another page you'll find interesting is the education workshop seminars page. The IRS offers a variety of specialized courses for the exempt organization community. This page includes live training, virtual training, educational resources and other educational products and programs.

While on the topic of additional information and resources, we are excited to mention that the – earlier this year we released a new series of pages designed to explain the IRS audit process for charities and other nonprofit organizations.

**Rich:**

**[Slide 53]** We've also made our webinars available on the IRS video portal. You'll find video clips of tax topics, archived versions of live panel discussions and webinars and as I mentioned all of the EO webinars.

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You'll find the IRS Video Portal by going to [IRSvideos.gov](https://www.irs.gov/irs/videos).

**[Slide 54]** Our hour is up, that's our presentation. We hope you found that this information was useful. Joe and I certainly enjoyed bringing it to you.

We encourage you to send in questions asking about what we covered and you can do that by e-mailing us at: [tege.eo.ceo@irs.gov](mailto:tege.eo.ceo@irs.gov).

Thanks so much for attending this presentation.

Have a great afternoon.